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C O N F I D E N T I A L SECTION 01 OF 02 KABUL 002832

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E.O. 12958: DECL: 10/21/2018  
TAGS: [KDEM](#) [PGOV](#) [AF](#)  
SUBJECT: ELECTION POLITICS AT PARLIAMENT

REF: A. KABUL 0601  
[1](#)B. KABUL 2416

Classified By: S. Nichols, Reason 1.5 (b) and (d)

[1](#)1. (SBU) Daoud Ali Najafi, Chief Technical Officer at the Independent Election Commission (IEC), appeared before the leadership of the legislature on October 19 to calm the recent controversy there over the fall 2009 time frame for presidential and provincial council elections. The recent flare-up was sparked October 11 when Mohammed Younus Qanooni, Speaker of Lower House, responded to members' questions regarding IEC's election timing by agreeing with their concerns, saying that only the legislature had the authority to change the presidential election date from the March/April date spelled out in Article 61 of the constitution. In his appearance before the legislative committee and the monitoring committee on October 16, Dr. Najafi initially faced tough questioning from the members, but reports that by October 19, the MPs were responding favorably to his outline of how the IEC had developed the elections time line. He reviewed the early 2008 discussions, which included parliamentary leadership, that led to the broad political consensus on a fall 2009 time frame for the presidential and provincial elections. According to Najafi, the MPs positions appear to have softened and most are now saying only that the legislature must be "consulted" on election issues. Another factor in the cooling of this debate is that Qanooni is currently out of the country.

DEBATE POWERED BY POLITICS MORE THAN CONSTITUTIONAL CONCERNS

[1](#)2. (SBU) The date of the presidential election appears to be the latest on a list of issues in which the legislature has sought to find a stronger position in the balance of power between it and the executive. Qanooni, and a sampling of other Members who spoke with PolOffs, insisted the election date controversy was a question of constitutionality. MPs did not address, however, Article 160, which prescribes that parliamentary elections should be held concurrently with the presidential election, most likely because parliamentary elections in 2009 hold only political disadvantages for these incumbents. Many MPs prefer to point to Article 83, which links the timing of legislative elections to the specified five-year term. Also, by allowing the election bill to bog down in controversy over Kuchi representation, legislators forfeited the opportunity to

revisit the early 2008 political consensus (which included Qanooni) that led to the IEC's choice of a fall 2009 time frame for elections (REF A).

#### IEC'S POLITICAL LEADERSHIP NOT HELPING

¶3. (C) Dr. Lodin, the senior IEC Commissioner, has consistently refused to appear before the Lower House on any issue, a stance that reflects in part his view that the legislature should not meddle in elections, and in part his strong personal rivalry with Qanooni. Many MPs, however, view the opportunity to question the IEC leadership as a legitimate oversight function. Lodin's attitude and the IEC's tardiness in developing an effective legislative strategy increasingly looks like it could prove more costly to the IEC's legitimacy than active engagement might be. Each round revives, publicly, questions about the Commission's political independence. The IEC's technical leadership is uncomfortable with its position in the middle of this political wrangling and concerned about its impact as the new institution seeks to strengthen its infrastructure - something which requires legislative support.

¶4. (C) The absence of an arbiter to interpretations of the constitution is a proximate cause of these political maneuvers. The constitutional commission itself, however, is bogged down in the same debate that swirls around the IEC: to what extent may the president independently appoint members of these "apolitical" commissions, and to what extent may, or should, the legislature provide a check by ratifying these commission members? Presidential confidante Ibrahim Spinzada

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on October 20 remarked in confidence that, if the election date controversy does not unravel by itself, President Karzai will step forward to rebuild the earlier consensus, most likely around the fall 2009 time frame.

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